

### REMARKS

By the foregoing amendments claims 1, 17 and 20 have been amended. Thus, with entry of the amendments claims 1, 4, 6-18, 20-25, 28 and 29 are in the application.

Applicants gratefully acknowledge the courteous telephone interview granted by Examiner Alvin C. Chin-Shue to their undersigned attorney on August 29, 2011. Prior to the telephone interview, the undersigned forwarded a proposal for telephone interview including an attached proposed amended claim 1 for discussion along with comments distinguishing the present invention from the applied references. The proposal was faxed to the Examiner on August 22, 2011. As a result of the telephone interview as summarized in more detail below, the Examiner agreed that the outstanding rejections of the application claims as set forth in the Office Action of May 2, 2011 are overcome by the above amendments to the claims. The Examiner required Applicants to file a Request for Continued Examination to allow further consideration and an updating of the prior art search in relation to the amended claims. If no additional prior art is found, the claims will be allowed by the Examiner. Responsive to the agreement during the interview, the above amendments to the claims have been made and a Request for Continued Examination is filed herewith to require consideration of the amended claims at this time. A Petition for Extension of Time is also filed herewith to permit the timely filing of this amendment within the one month extension of time from the outstanding Office Action of May 2, 2011.

Claims 1, 6, 7, 9, 10 and 12 are rejected in the Office Action under 35 U.S.C. §103(a) as being unpatentable over Mastrogiannis, U.S. 4,310,070 in view of Kitson, U.S. 4,899,989 as stated on page 2 of the Office Action.

Claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Mastrogiannis in view of Kitson, as applied to claim 1, and further in view of Vollan, U.S. 3,968,858, as stated on page 2 of the Office Action.

Claims 1, 6, 7, 8 and 10 are rejected under 35 U.S.C. §102(b) [sic- §103 since two references are combined and a modification of one as being obvious in view of the second reference] as stated on page 3 of the Office Action.

Claims 4 and 14-16 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ho and Taylor, as applied to claim 1, and further in view of Bennett, U.S. 2,647,675 as stated on pages 3 and 4 of the Office Action.

Claims 6-8, 11, 17, 28 and 29 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ho and Taylor, as applied to claim 1, and further in view of either Freeman, U.S. 5,927,440 or Maubach, et al., U.S. 4,467,889 as stated on page 4 of the Office Action.

Claim 18 is rejected under 35 U.S.C. §103(a) as being unpatentable over Ho in view of Taylor and either Freeman or Maubach, et al. as applied to claim 17, and further in view of Forbes, U.S. 2,736,526, as stated on page 4 of the Office Action.

Claims 20-25 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ho and Taylor, as applied to claim 1, and further in view of Schworer, U.S. 5,000,287, as stated pages 4 and 5 of the Office Action. The Examiner takes official notice in the rejection for the reasons stated on page 5 of the Office Action.

Claims 4, 10 and 14-16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Mastrogiannis in view of Kitson as applied to claim 1, and further in view of Bixby, U.S. 5,141,181 as stated on pages 5 and 6 of the Office Action.

Claims 6-8, 11, 17, 18, 28 and 29 are rejected under 103(a) under 35 U.S.C. §103(a) as being unpatentable over Mastrogiannis in view of Kitson and Bixby, as applied to claim 4, and further in view of either Freeman or Maubach, et al. The references are combined for the reasons and in the manner stated on page 6 of the Office Action.

Claims 20-25 are rejected under 35 U.S.C. §103(a) as being unpatentable over Mastrogiannis in view of Kitson and Bixby, as applied to the claims of the previous rejection, and further in view of Schworer as stated on page 7 of the Office Action. Again, the Examiner takes official notice for the reasons stated on page 7 in connection with this rejection.

These rejections are traversed for the reasons advanced during the aforementioned telephone interview and summarized below. The Examiner agreed during the interview that with the amendments to the claims as set forth above, the outstanding rejections of the claims are overcome.

The undersigned argued during the aforementioned telephone interview that the primary reference to Mastrogiannis, U.S. 4,310,070 discloses foot pedal-like consoles which are described to climb up a rail-like profile. In Figure 10 in the patent, one console is shown, which is movable around an axis 26" to create a step-like up- or downward movement of the pedal-like console. In contrast, the climbing consoles of the present invention are each longitudinally extended, see Figure 1 of the application drawings,

with a platform or seat at the lower end of the console and a handle attached to the climbing console at an upper end of the climbing console. The device in Mastrogiannis is not at all longitudinally extended and a handle is not mentioned. Note, the user is taught to grasp the post 1 with his hands during use, see column 5, lines 55-57, of Mastrogiannis.

Kitson, et al., U.S. 4,899,989 discloses a single slidable handle 2 for use with stairs. The handle is not part of a console with a handle attached to the upper end and a platform or seat for the person standing or sitting at the lower end of the console as in the present invention. With the present invention, if on one side of the arrangement, one climbing console is moved upwards, simultaneously the platform or seat and handle of the climbing console are moved upwards, while on the other side of the arrangement, the other climbing console is firmly positioned with the platform or seat and the handle of the other climbing console and stationary position. The combined movement of the two parts -the platform or seat and the handle of the console- is essential, and even in case of using a handle according to the Kitson patent in Mastrogiannis, this would not fulfill this requirement.

The patent to Vollan, et al., U.S. 3,968,858, cited in the rejection of dependent claim 9 for its disclosure of a safety belt or harness does not provide for the aforementioned deficiencies of Mastrogiannis and Kitson, et al. Vollan et al. is otherwise different from the present invention. The other primary reference, the patent to Ho, U.S. 4,828,072 does not show two consoles at 71 in Figure 1 but only one single platform is shown, which can be driven upwards or downwards along two profiles. In other words, at 71 in Figure 1 of Ho, only one console is shown, as well as only one single platform

and not as described in claim 1 as amended, wherein the arrangement has two consoles, each having a platform or seat and handle.

The secondary reference to Taylor, U.S. 5,295,557 discloses only one platform, which can be temporarily installed and which can be used in the sense of a security platform at specific works, e.g. within tunnels, at buildings, etc. But whether this platform can be used for transporting persons upwards or downwards is more than doubtful, and there are no indications for the arrangement of the platform at a profile; but even by combining Taylor with Ho, important features of the present invention as recited in the amended claims are not present.

The patent to Bixby, U.S. 5,141,181, is for a platform lift apparatus, the reference was cited for its disclosure of a pinion 29, rack 26 and gear drive at 28. However, in Bixby the platform lift apparatus is not an arrangement having a rail-like profile and a climbing aid arranged thereon which includes two independently operable, longitudinally extending climbing consoles with a handle arranged at the top end and a platform or seat arranged at the downward end as disclosed and claimed by Applicants.

The additional secondary references to Bennett, Freeman, Maubach, et al., Forbes, and Schworer also do not provide for the aforementioned deficiencies of the primary references. The present invention has been distinguished from each of these secondary references in the remarks in the Amendment After Final Rejection filed July 29, 2010, which remarks are hereby incorporated by reference.

It is respectfully submitted that the claims as amended patentably define, 35 U.S.C. §103 over the aforementioned references relied upon in the

rejections of the claims in the outstanding Office Action. The Examiner agreed with this during the aforementioned telephone interview. In view of the above amendments and remarks and the referenced telephone interview, it is respectfully submitted that the claims as amended patentably define over the cited references. Accordingly, reconsideration and allowance of the amended claims is requested.

A Request for Continued Examination and a Petition for Extension of Time are filed herewith as noted above, to permit the timely filing of this Amendment within the one month extension of time and consideration of the amended claims.

Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 01-2135 (Case No. 635.45828X00) and please credit any excess fees to such deposit account.

Respectfully submitted,

/Ronald J. Shore/ 

Ronald J. Shore

Registration No. 28,577

ANTONELLI, TERRY, STOUT & KRAUS, LLP

RJS/kmh